

**PT 02-39**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>ABUNDANT FAITH CHRISTIAN CENTER</b> <b>Applicant</b> <b>v.</b>	}	<b>A.H. Docket #</b> <b>Docket #</b>	<b>01-PT-0051</b> <b>00-84-13, 00-84-14</b> <b>00-84-15</b>
<b>THE DEPARTMENT OF REVENUE</b> <b>OF THE STATE OF ILLINOIS</b>	}	<b>P. I. #</b>	<b>22-11.0-127-001, 22-11.0-127-002</b> <b>22-11.0-200-001, 22-11.0-200-002</b> <b>22-02.0-452-007</b>

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. Duane D. Young, LaBarre and Young for Abundant Faith Christian Center; Mr. Matthew Crain, Special Assistant Attorney General for the Illinois Department of Revenue.

**Synopsis:**

The hearing in this matter was held on January 23, 2002, to determine whether Sangamon County Parcel Index Nos. 22-11.0-127-001, 22-11.0-127-002, 22-11.0-200-001, 22-11.0-200-002 and a portion of 22-02.0-452-007 qualified for exemption during the 2000 assessment year.

Pastor Jerry Wayne Doss of Abundant Faith Christian Center, (hereinafter referred to as the "Applicant") Mr. Sandy Robinson, II, ordained elder and treasurer of the Board of Trustees, and Ms. Traci Stevens, Director of Supportive Services were present and testified on behalf of applicant.

The issue in this matter is whether Sangamon County Parcel Index Nos. 22-11.0-127-001, 22-11.0-127-002, 22-11.0-200-001, 22-11.0-200-002 and a portion of 22-02.0-452-007

were used by applicant for exempt purposes during the 2000 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the exemption for Parcel Index No. 22-11.0-127-001 be granted and the rest be denied. In support thereof, I make the following findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

**FINDINGS OF FACT:**

1. The jurisdiction and position of the Department that Sangamon County Parcel Index Nos. 22-11.0-127-001, 22-11.0-127-002, 22-11.0-200-001, 22-11.0-200-002 and a portion of 22-02.0-452-007 did not qualify for property tax exemptions for the 2000 assessment year were established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 16)

2. On August 8, 2000, the Department received the requests for exemption of the above property at issue from the Board of Review of Sangamon County. The board recommended granting the requested exemptions. On May 3, 2001, the Department denied the requested exemptions of Parcel Index Nos. 22-11.0-127-001, 22-11.0-127-002, 22-11.0-200-001, 22-11.0-200-002. On that date the Department also denied the exemption of Parcel Index No. 22-02.0-452-007 except for the storage shed and the land on which it stands. The denials were based upon a finding that the properties were not in exempt use. On May 18, 2001, applicant timely protested the denials and requested a hearing. The hearing on January 23, 2002, was held pursuant to that request. (Dept. Ex. No. 1)

3. Docket No. 00-84-13 involves Parcel Index No. 22-11.0-127-001. It consists of 2.76 acres and contains a two-story brick residence. For purposes of this recommendation it will be referred to as the "Haven House." (Dept. Ex. No. 1; Applicant's Ex. No. 1)

4. Docket No. 00-84-14 involves Parcel Index Nos. 22-11.0-127-002, 22-11.0-200-001, and 22-11.0-200-002. It consists of 10 wooded acres. The property will be referred to as the “Matthews” property for purposes of this recommendation. (Dept. Ex. No. 1; Applicant’s Ex. No. 1)

5. Docket No. 00-84-15 involves Parcel Index No. 22-02.0-452-007. It consists of 2.34 acres and contains the shed and land on which it stands that have been granted a property tax exemption. It will be referred to as the “Renfro” property for purposes of this recommendation. (Dept. Ex. No. 1; Applicant’s Ex. No. 1)

6. The subject properties are contiguous and border applicant’s church property to the southwest, west, and north. (Applicant’s Ex. Nos. 1, 6) The entire land owned by the church is 30 acres. Applicant purchased the properties to use as an area to contain its complete ministry. (Tr. pp. 115-116)

7. Applicant had site plans done for the properties in 1999. The plans for the Haven House property include the house, a playground, and garden. On the Matthews and Renfro properties, a football/softball field, a softball/soccer area, and additional parking are planned. (Applicant’s Ex. No. 6; Tr. pp. 23, 27-29)

8. Applicant is a member of the Continuum of Care that the U.S. Department of Housing and Urban Development (hereinafter referred to as “HUD”) established for social service agencies that apply for HUD funding. (Tr. pp. 90-91) The division of Continuum of Care that applicant belongs to is called the “Heartland Continuum of Care” and encompasses five counties. (Tr. pp. 120-121) Applicant has linkage agreements with other social service agencies within the Continuum of Care. (Applicant’s Ex. No. 3; Tr. pp. 91, 122) There are over 50 agencies in Springfield, Illinois that belong to the Continuum of Care. The agencies offer

housing, clothing, free food, and other services to low income or homeless people. (Tr. pp. 151-152) HUD requires the member agencies to keep a “GAP” analysis of services the agency could not provide or services that had to be referred in order to identify the needs of the community. (Tr. pp. 151-152)

### **HAVEN HOUSE**

9. The applicant purchased Haven House to provide transitional housing shelter for women and their children in crisis situations. A mother’s sons may accompany her as long as the male children are 10 years old or younger. The house is available to persons following incarceration, substance abuse rehabilitation, or domestic abuse situations. (Dept. Ex. No. 1)

10. The mission of Haven House is to provide a safe, residential environment for at-risk women and children. Through the transitional housing program, applicant offers educational programs, childcare, job training, and other supportive services that will help in overcoming individual barriers that hinder independent living and self-sufficiency. (Applicant’s Ex. No. 2; Tr. pp. 99, 123)

11. The applicant purchased Haven House on May 25, 1999. The property encompasses 2.76 acres and at the time of purchase contained a 100-year old brick two-story house with a basement. The house had a large living room, kitchen, three bedrooms, and a bathroom. The house was vacant at the time of purchase and was badly in need of repair. Applicant modernized the inside of the entire home and new electrical, plumbing, roofing, insulation, heating and cooling, drywall, appliances, and furnishings were provided. (Dept. Ex. No. 1)

12. The land surrounding the house was overgrown with weeds. The property

contains numerous trees. Applicant received assistance from the Department of Corrections to clear out the underbrush. (Tr. pp. 69-70)

13. In the year 2000 applicant spent extensive time and money rehabilitating Haven House. (Dept. Ex. No. 1; Applicant's Ex. No. 2; Tr. pp. 68-69) The dwelling was completely renovated with funding assistance from state agencies, free labor from the Department of Corrections, and applicant's church funds. (Tr. pp. 71-73) A grant in the amount of \$31,059 was awarded from the Department of Commerce and Community Development to provide energy improvements for Haven House. The money had to be spent between March 27, 2000 and January 31, 2001. (Applicant's Ex. No. 5) On November 2, 2000 applicant was awarded a grant of \$12,800 from the Department of Human Services for equipment and furnishings for Haven House. (Applicant's Ex. No. 4) A playground was installed on the land and an area was dedicated for a garden. (Tr. p. 71; Applicant's Ex. No. 10)

14. Applicant invited social service agencies to an open house on the property in November 2000 to acquaint them with the facility and gain knowledge of how to run the operation. Residents first occupied the house in February 2001. (Tr. pp. 119-120) The house can accommodate up to 15 people. Maximum stay in the house is for 12 months. (Applicant's Ex. No. 10; Tr. pp. 21-24, 71)

15. According to the bi-laws of Haven House, residents are expected to take part in job placement or other programs as determined by the applicant's caseworker and the resident. No violence, weapons, illegal drugs, alcohol, or illegal activities are allowed on the premises. Occupancy is limited to residents and children. Residents are allowed to have pre-approved visitors in the common areas of the house. Curfew is 10:00 p.m. Sunday through Thursday and 12:00 on Friday and Saturday. Doors and windows must remain locked when no one is present

in the house. Residents are responsible for cleaning their personal rooms and the common areas. (Applicant's Ex. No. 2)

16. A downstairs apartment is provided for applicant's "lead resident" or housemother. (Tr. p. 71) Her responsibilities include monitoring the resident's adherence to house regulations and curfew. (Tr. pp. 127-128) The housemother is responsible for taking the residents shopping for groceries in the evenings and on weekends. Her work schedule is from 5:30 p.m. to 8:30 a.m. and weekends. (Applicant's Ex. No. 2; Tr. pp. 168-169) The housemother stays in the shelter free of charge and in return she tracks the day-to-day events that occur in the house, ensures that the house rules are not broken, and reports once a week to the Director of Supportive Services for the applicant. (Applicant's Ex. No. 2; Tr. pp. 128, 142-147)

17. Applicant gets resident referrals from temporary shelters and other social service agencies. (Tr. pp. 125-126) Residents of Haven House do not have to be members of applicant's church. (Tr. p. 94) Applicant has a waiting list for Haven House of at least 15 potential residents. (Tr. pp. 156-157)

18. Once a referral is made, applicant does an individual assessment and residents are prioritized on the level of need. (Tr. pp. 129-130) Potential residents complete a comprehensive intake application form. (Applicant's Ex. No. 2; Tr. pp. 133-134) Residents are selected on a first-come-first-serve basis. (Tr. p. 126)

19. A resident must set goals when they move into Haven House. The resident must attend school or work at least 20 hours a week. Applicant is influential in the resident's learning of living, financial, budgeting, and other skills necessary for independent living. (Tr. p. 123) The resident meets with applicant's case worker and sets objectives for independent living and permanent residence. (Tr. p. 131)

20. Applicant works with other agencies in Springfield to provide the necessary education, treatment, training and other support services for the residents of Haven House. (Applicant's Ex. Nos. 2-4; Tr. pp. 21-24) Applicant makes referrals to other social service agencies to help the resident accomplish the set goals. (Tr. pp. 135-136)

21. All residents with income are required to pay "housing costs." Housing costs are 30% of overall income for single women and 20% of overall income for women with children. If a resident has no income, no housing costs will apply. Housing costs are due promptly every month. The housing cost payments for each resident are deposited into the individual resident's bank account and used to assist in financially establishing permanent housing for that resident. (Applicant's Ex. No. 2; Tr. pp. 123-124, 130-132)

22. Immediate termination of residence at Haven House will occur if the resident fights, is abusive, has illegal drugs or alcohol, sexually harasses others, steals, or doesn't pay housing costs, if due. (Applicant's Ex. No. 2)

23. Applicant has received numerous grants from state agencies and the federal government, particularly in 2001 and later years, to support its homeless services/emergency shelter/supportive-housing program. (Applicant's Ex. No. 4; Tr. pp. 147-151)

24. Applicant has installed a security gate and an alarm system to restrict access to Haven House and for the safety of the residents. (Applicant's Ex. No. 10; Tr. pp. 100, 165-166)

25. The Matthews property separates Haven House from applicant's church property, which is to the east. The only road access to Haven House is from the west. In order for a member of applicant's staff to drive to Haven House, a two to four mile trip is necessary. (Applicant's Ex. No. 1; Tr. pp. 24-25, 99)

26. In order to access public transportation, residents of Haven House must walk along a path applicant has carved out on the Matthews property. (Tr. p. 27)

### **MATTHEWS PROPERTY**

27. Applicant purchased the Matthew's property on May 14, 1998. The 10-acre property is vacant. After its purchase, applicant spent a considerable amount of money contracting with others to take down trees and move dirt. That got expensive, so applicant purchased its own bulldozer and backhoe to clear the land. (Applicant's Ex. No. 11; Tr. pp. 26, 82-83, 101-102)

28. In 1998 Applicant had to take the city sewer line across the Matthews property to connect it to the applicant's new church building on property not at issue herein. The sewer line is intended to serve applicant's church and further improvements. (Tr. pp. 63, 65, 86-87)

29. The topography of the Matthews property at the time of purchase was hilly with considerable amounts of prairie grass and brush. As the Matthews property is between Haven House and applicant's church, and because of the considerable amount of trees and underbrush, Haven House was not visible from the church. A dirt path through the Matthews property currently connects applicant's church and Haven House. Applicant had Department of Corrections prisoners help clear the Matthews property. (Tr. pp. 83-85, 103-104)

30. According to the 1999 site plan submitted, applicant intends to use this property for its playground and sports complex including a football/softball field and a softball/soccer area. Applicant had no recreational fields that were operational on the property at the time of the hearing. The land is not smooth enough for that type of activity. It has been used for hikes and wiener roasts. (Applicant's Ex. No. 6; Tr. pp. 27-29, 49)

## **RENFRO PROPERTY**

31. Applicant acquired the 2.24-acre Renfro property in October 1998. (Dept. Ex. No. 1) Applicant demolished an uninhabitable mobile home located on the property at the time of acquisition. Applicant intends to use the property for parking. (Tr. pp. 29-30, 78-79) Applicant may have part of the softball field on the land. (Tr. pp. 30-31)

32. Applicant has not done anything with the Renfro property other than a considerable amount of cleanup and excavation work. The previous owners had a refuse and waste hauling business and the area was used as a dumping ground. Applicant put up a locking farm gate to secure the property from people dumping additional refuse. (Tr. pp. 78-80)

## **CONCLUSIONS OF LAW:**

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40.

That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, . . .

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Applicant is a religious organization that operates a church. There is no all-inclusive definition or specification of what constitutes a religious purpose for tax purposes. Fairview Haven v. Department of Revenue, 153 Ill.App.3d 763, 774 (4<sup>th</sup> Dist. 1987)

Applicant has 30 acres that include applicant's church, Haven House, the Matthews properties, and the Renfro property. The church property is not at issue. Applicant intends a multifaceted use of all of the properties to be a complete complex, a supportive community center "from womb to tomb." (Tr. pp. 32, 89-90) Applicant intends to implement its "womb to tomb" theory by starting with its Christian belief through its church and carrying that belief through its proposed day care center<sup>1</sup>, school, senior citizen center, and on to heaven. (Tr. pp. 32, 66)

Applicant avers that it uses the subject properties, or in the alternative, is adapting the subject properties for religious and charitable purposes as envisioned in its "womb to tomb" Christian philosophy. That philosophy embraces all its endeavors and the acquisition of the subject properties is in furtherance of that philosophy. First Presbyterian Church of Dixon v.

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<sup>1</sup> Applicant also perceives Haven House to be part of its "womb to tomb" philosophy encompassing care for

Zehnder, 306 Ill.App.3d 1114 (2<sup>nd</sup> Dist. 1999) discusses the interrelationships of the purpose of a religious organization and the charitable missions it undertakes in furtherance of that purpose. The court found the charitable uses of the property in furtherance of the church's religious mission also qualify for exemption. Therefore, the charitable exemption provision is also pertinent in this case.

That provision is found at 35 **ILCS** 200/15-65 and states:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, . . .
- (c) Old people's homes, facilities for persons with a developmental disability, and not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development, . . .

Our courts have long refused to apply this exemption absent suitable evidence that the property in question is owned by an "institution of public charity" and "exclusively used" for purposes which qualify as "charitable" within the meaning of Illinois law. Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149, 156 (1968) (hereinafter "Methodist Old People's Home"). They have also ascribed to the following definition of "charity" originally articulated in Crerar v. Williams, 145 Ill. 625, 643 (1893):

... a charity is a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare - or in some way reducing the burdens of government.

The Illinois Supreme Court has effectuated this definition by observing that all

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children and adults.

institutions of public charity share the following distinctive characteristics:

The organization:

- 1) must benefit an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare-or in some way reduce the burdens of government;
- 2) must have no capital, capital stock, or shareholders and earn no profits or dividends;
- 3) must derive its funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters;
- 4) must dispense charity to all that need and apply for it, and must not provide gain or profit in a private sense to any person connected with it; and,
- 5) must not place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits dispensed; and
- 6) the term “exclusively used” means the primary purpose for which the property is used and not any secondary or incidental purpose. Methodist Old Peoples Home at 157.

Although the criteria cited in Methodist Old Peoples Home are not an exclusive rigid formula, they are guidelines that help to analyze whether an applicant is a charitable organization. Du Page Co. Bd. of Rev. v. Joint Comm'n, 274 Ill.App.3d 461 (2<sup>nd</sup> Dist. 1995) *leave to appeal denied* 64 Ill.2d 561 (1995)

The applicant purchased Haven House as transitional temporary shelter for women and children in crisis situations. Applicant spent its own money in addition to grants received for the rehabilitation of the house and the housing expenses for the residents. Residents are not charged to stay at Haven House unless they are able to contribute to the cost of their residency and pay the housing costs assessed. The housing costs are only charged to residents with income. The housing costs are put in an individual bank account for the resident and used to help establish a

permanent place for that resident to live. Residents are taken on a first-come-first-serve basis. Therefore, there are no obstacles placed in the way of those who would need and avail themselves of applicant's charitable benefits at Haven House. With the policies at the house, applicant benefits an indefinite number of persons, reduces the burdens on government, and dispenses charity to all that need and apply for it. Applicant has established that the funds for Haven House come from applicant's donations or from government grants, therefore applicant derives its funds from public and private charity.

During 2000 applicant had the house totally renovated, cleared the property, and made it suitable for the residents. Residents occupied the house in early 2001. Illinois courts have consistently held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1<sup>st</sup> Dist. 1977); and Weslin Properties Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2<sup>nd</sup> Dist. 1987). I therefore conclude that because the applicant was in the process of renovating and restoring the house during all of the 2000 assessment year, it was in the process of adapting said property for exempt use.

The 10-acre Matthews property was vacant when purchased. Applicant used earth-moving equipment to clear the property in 2000. Applicant's original intention, according to the site plan developed in 1999, was to have softball/football/soccer fields and recreational areas on the property. Applicant now has plans for a day care, school, and senior center, apparently on a portion of the properties in question. At the hearing, applicant's ordained elder and treasurer of

the Board of Trustees testified that the site plans have been updated. (Tr. p. 115)<sup>2</sup> The testimony was that as the use of the property has evolved, needs have manifested themselves, and no specific point in time could be given as to whether the school, daycare, and senior center were originally envisioned or part of future development for applicant's property. It was admitted that the buildings were not on the site plan submitted.

Applicant was awarded an Illinois First Grant of \$100,000 in 2001 for all costs associated with the excavation and construction of a playground and sports complex. (Applicant's Ex. No. 12) Applicant failed to establish where that playground and sports complex will be located. Applicant has not established what its specific intentions are for the Matthews property. In 2000 the property was not smooth enough to use even for recreational purposes.

The same is true for the Renfro property. When purchased, it had a dilapidated trailer on it that applicant demolished. Applicant also removed or bulldozed waste and rubbish but did not establish that any exempt use was made of the property.

Applicant has not proceeded with exempt uses of the Renfro or Matthews properties. Applicant has not established what its specific intentions are for those properties. The fact that a further site plan was developed evidences that the applicant, in 2000, had no firmly established exempt uses for the properties in mind. In the case of People ex rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), the Illinois Supreme Court held that the mere fact that property was intended to be used for an exempt purpose was not sufficient to exempt said property. The court required that the actual primary exempt use must have begun for the property to be exempt. Applicant has not established that it used the Renfro and Matthews

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<sup>2</sup> The revised site plan was not produced at the hearing nor was it established which properties it encompassed and what buildings would be on which properties.

properties for exempt use or that it was in the process of developing those properties for exempt use in 2000.

It is therefore recommended that Sangamon County Parcel Index No. 22-11.0-127-001, or the Haven House property, be exempt from property taxation for the 2000 assessment year. It is further recommended that Sangamon County Parcel Index Nos. 22-11.0-127-002, 22-11.0-200-001, 22-11.0-200-002, and the portion of Sangamon County Parcel Index No. 22-02-452-007 at issue, remain on the tax rolls for the 2000 assessment year.

Respectfully Submitted,

Date entered: May 31, 2002

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Barbara S. Rowe  
Administrative Law Judge